

## **Article 13**

### **TRANSFER**

#### **A. Definitions**

1. Transfer. A change of assignment of a unit member at the unit member's request or initiative.
2. Assignment. The particular position at or from a particular work location (or work site) as determined by the Employer.
3. Reassignment. A permanent change of a unit member's assignment made by the Appointing Authority at the Appointing Authority's initiative.
4. Vacancy. A permanent position which the Appointing Authority is seeking to fill. A position from which a unit member has been laid off is not a vacancy.

#### **B. Right of Assignment**. The Appointing Authority shall have the right and responsibility to assign and reassign unit members in accordance with departmental needs.

#### **C. Transfer**. In order to enable unit members to be considered for vacancies the Appointing Authority intends to fill, the Appointing Authority shall establish vacancy transfer lists in accordance with the provisions specified below.

1. Transfer List. Unit members shall be entitled to have their names placed on the vacancy transfer list by notifying the Personnel Office in writing during the months of May and November. All such requests must be made in accordance with departmental procedures. The list compiled as a result of the requests received in May shall become effective on July 1 and remain in effect through December 31. The list compiled as a result of the requests received in November shall become effective on January 1 and remain in effect through June 30.
2. Transfer lists shall be maintained by county or division within a county, if applicable. Unit members may make themselves available for transfer to up to five (5) counties. If a unit member declines a transfer to a county which he/she has requested after being interviewed for a position, the Appointing Authority may remove such unit member from the transfer list for that county. A unit member may at any time remove his/her name from a transfer list by written notice to the Appointing Authority.

3. When the Appointing Authority intends to fill a permanent vacancy, it is agreed that the Employer will select one of the three most senior journey level members from the transfer list to fill the initial vacancy. An initial vacancy is defined as a newly established position or a vacant position where the prior incumbent was separated or promoted. If less than three names appear on the list then the Employer may supplement the list. If less than three names appear on the transfer list, then those remaining employees will be guaranteed an interview. If more than three names appear on the transfer list and one or more employee(s) voluntarily removes his/her name from consideration, or is not considered as provided in Section C(4) below, the Employer will select one of the three most senior journey level members remaining on the list. This process is only for vacancies at the journey level, with the exception of the Department of State Police, and only refers to the initial vacancy. The parties agree that in the Department of State Police this process is only for vacancies at the 12 level.

In the Department of State Police, the parties further agree that where a position requires court testimony as an expert witness as an element of the job, the unit member must possess the education, experience and training to be recognized by a court as an expert witness in the specialty area of the position.

4. Exceptions. The Employer shall not be required to consider any of the following employees for transfer from a transfer list:
  - a. An initial or continuing probationary employee;
  - b. An employee with a less than satisfactory interim rating in effect;
  - c. An employee who has transferred from a transfer list within the last 6 months.
5. Hardship Transfers. Hardship transfers to another county may be granted, if certified by MPES, if a legitimate hardship exists and if the transfer would not impair the operational effectiveness of the Department. For purposes of this Section, hardship means the health condition of the employee or a member of employee's immediate family, as defined in Article 22-b.1., requiring the employee's presence in another county for an extended period of time. There must be an existing vacancy which the Department intends to fill to which the employee is being transferred. Relocation expenses are not paid for hardship transfers.

All hardship transfer requests shall be in writing and set forth the circumstances of the request. MPES agrees that approval or

disapproval of hardship requests shall not be grievable beyond Step Two of the grievance procedure.

6. The Appointing Authority shall not pay relocation expenses when the Appointing Authority fills the vacancy from the transfer list.
  7. The provisions of this Section shall apply only to transfers between positions at the unit member's current class and level and positions within the unit member's current Department.
- D. Reassignments to Avoid Layoffs. If the Employer plans to reassign Bargaining Unit members to avoid the necessity of layoffs, at least ten days prior to any such reassignments, the Employer shall publish a list of positions within the affected division(s) into which employees will be reassigned for the review of the affected employees. A copy of the list will be sent to MPES within three days of publication. Interested affected Bargaining Unit members in the affected division shall have five days to submit their names for consideration. The Employer will take any responses into consideration if such reassignments take place.